



**Phone:** (718) 971-9474 | **Fax:** (718) 865-0943 | **Email:** Jonathan@Shalomlawny.com  
**Office:** 105-13 Metropolitan Avenue Forest Hills, New York 11375

October 5, 2021

**VIA ECF & E-MAIL**

United States District Court  
Southern District of New York  
Attn: Gregory H. Woods, U.S.D.J.  
500 Pearl Street, Courtroom 12C  
New York, NY 10007-1312  
woodsnydchambers@nysd.uscourts.gov

Re: Molina v. Hornblower Group, Inc., *et al.*  
Case No.: 1:20-cv-10821 (GHW) (OTW)  
Joint Letter regarding Initial Conference & Proposed Civil Case Management Plan

Dear Judge Woods:

This office represents the Plaintiff in the above-referenced case. Plaintiff writes jointly with Defendants pursuant to this Court's March 30, 2021 Case Management Plan and Scheduling Order [Docket # 25] in order to provide Your Honor with a joint status update in advance of the Status Conference presently scheduled for **October 12, 2021 at 4:00PM**.

**(1) All existing deadlines, due dates, and/or cut-off dates;**

Plaintiff's position: fact discovery is closed pursuant to this Court's July 29, 2021 Order denying the parties' joint letter motion for an extension of time to complete discovery. The only remaining applicable item in the March 30, 2021 Civil Case Management Plan and Scheduling Order is the parties' contemplated mediation after the close of fact discovery.

Defendants' position: Defendants concur that, per the governing Case Management Plan and Scheduling Order, fact and expert discovery is now closed. As indicated above, the parties' joint request for an extension of the initial fact discovery deadline was denied and, therefore, depositions of the parties were not held and remain outstanding.

**(2) A brief description of any outstanding motions;**

Plaintiff's position: There are no outstanding motions.

Defendants' position: Defendants concur.

**(3) A brief description of the status of discovery and of any additional discovery that remains to be completed;**

Plaintiff's position: All discovery, including expert discovery, is closed pursuant to the July 29, 2021 Order. As a result, and of note, the parties never conducted depositions in this case.

Defendants' position: Defendants concur. As indicated above, depositions of the parties have not been held and remain outstanding.

**(4) The status of settlement discussions;**

Plaintiff's position: The parties conducted a mediation on July 12, 2021 but were unable to reach a settlement.

Defendants' position: Defendants concur.

**(5) The anticipated length of trial and whether the case is to be tried to a jury;**

Plaintiff's position: The anticipated length of trial is three (3) days and this case is to be tried by a jury.

Defendants' position: Defendants concur.

**(6) Whether the parties anticipate filing motions for summary judgment; and**

Plaintiff's position: Defendants have evinced their intent to move for summary judgment by their recent filing of a letter motion for a pre-motion conference in anticipation of same. For the reasons set forth in Plaintiff's letter response in opposition, Defendants' anticipated motion would be a waste of judicial resources as it is apparent that there exist genuine issues of material fact which require a jury trial.

Defendants' position: Defendants have requested permission and intend to press forward with a Rule 56 motion for summary judgment. Additionally, defendants have requested permission to file a motion to exclude any expert testimony and/or evidence offered by plaintiff at the time of trial regarding the alleged disability in accordance with Individual Rule 3F, and by virtue of plaintiff's failure to comply with Federal Rule of Civil Procedure 26(a)(2)(C).

**(7) Any other issue that the parties would like to address at the pretrial conference or any other information that the parties believe may assist the Court.**

Plaintiff's position: Plaintiff respectfully submits that he is not aware of any other information he believes may assist the Court, and does not have any other issue he would like to address.

Defendants' position: Defendants are unaware of any other such issues at this time.



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Dated: Forest Hills, New York  
October 5, 2021

Respectfully submitted,

**SHALOM LAW, PLLC**

/s/ Jonathan Shalom  
Jonathan Shalom, Esq.  
10513 Metropolitan Avenue  
Forest Hills, NY 11375  
jonathan@shalomlawny.com  
(718) 971-9474 (office)

Dated: Harrison, New York  
October 5, 2021

Respectfully Submitted,

**GORDON REES SCULLY  
MANSUKHANI, LLP**

By:

/s/ Ryan E. Dempsey  
Ryan E. Dempsey (RD-8201)  
Attorneys for Defendants  
HORNBLOWER GROUP, INC.,  
HORNBLOWER NEW YORK, LLC and  
HORNBLOWER CRUISES AND  
EVENTS, LLC  
500 Mamaroneck Ave Suite 503  
Harrison, NY 10528  
T: (914) 777-2209  
File No.: EVR-1224573